

EXHIBIT H



October 10, 2023

VIA EMAIL

Emily Johnson Henn, Esq.
ehenn@cov.com
COVINGTON & BURLING LLP
3000 El Camino Real
5 Palo Alto Square, 10th Floor
Palo Alto, CA 94306
Telephone: (650) 632-4700

Michael R. McDonald, Esq.
mmcdonald@gibbonslaw.com
GIBBONS P.C.
One Gateway Center
Newark, NJ 07102
Telephone: (973) 596-4500

Jordan S. Joachim, Esq.
jjoachim@cov.com
COVINGTON & BURLING LLP
The New York Times Building
620 Eighth Avenue
New York, NY 10018-1405
Telephone: (212) 841-1086

Re: *White, et al. v. Samsung Electronics America, Inc., et al.*, No. 17-1775 (MCA)(JSA)
Re: SEA's Inspection Notices for Named Plaintiffs' Samsung SmartTVs

Dear Counsel:

This letter responds to your October 3, 2023 letter outlining the actions intended to be taken by Samsung in accordance with its Inspection Notices served on the Plaintiffs regarding their Samsung SmartTVs.

A. Location and Available Connectivity

In its October 3 letter, Samsung asks Plaintiffs to identify the “location of each of the Samsung Smart TVs” identified in its letter. Plaintiffs have already provided this information in their responses and amended responses to Samsung’s Interrogatory No. 4, served on June 28, 2023, July 31, 2023, and October 5, 2023. Plaintiffs are willing to meet and confer regarding what, if any, additional information Samsung is seeking.

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Regarding your request that Plaintiffs “confirm that all of the identified Samsung Smart TVs will be produced for inspection in the same condition as Plaintiffs’ normal use of the Samsung Smart TVs as far as connections to power, internet, wifi and any other devices,” it is unclear what Samsung means by “normal use.” This litigation has been pending for over seven years, and Plaintiffs have used their televisions during that time period. It is further unclear what Samsung means by “other devices” as that term is undefined, vague, and ambiguous. Plaintiffs are willing to meet and confer with Samsung regarding this request.

B. Samsung Smart TVs

Thank you for clarifying that you are not seeking the inspection of the SmartTV identified by Samsung as “Cauley Smart TV No. 3” in its October 3, 2023 letter, which Plaintiff Cauley purchased for her parents and which is not within her possession, custody, and control. Please let us know if your position changes regarding the inspection of this SmartTV.

C. Inspection Details

Regarding the information Samsung seeks through inspections, Plaintiff provide the following responses to Samsung’s request:

Information sought by Samsung through its Inspection notices, per its October 9, 2023 Letter	Plaintiffs’ Response
1. Verify Model No and Serial No.	Plaintiffs provided this information in response to Samsung’s Interrogatory No. 7 (seeking “identif[ication of] the model number and serial number of Your Samsung SmartTVs”). Samsung’s request to “verify” this information is unnecessary, as it has raised no issues with the information Plaintiffs have provided in response to Interrogatory No. 7. Therefore the request is unduly burdensome. Plaintiffs are willing to meet and confer regarding the basis for Samsung’s request to inspect the TVs for this information.
2. Assess the physical condition of the Smart TV	Plaintiffs do not understand what the “physical condition” of the televisions have to do with the Wiretap Act claim, which concerns Samsung’s interception of consumers’ content, or with any of Samsung’s affirmative defenses. Samsung’s request to inspect the TVs for this information therefore seems unduly burdensome and wholly irrelevant. Plaintiffs

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	are willing to meet and confer regarding the basis for Samsung's request to inspect the TVs for this information.
3. Identify any devices connected to the Smart TV	Plaintiffs provided this information in response to Samsung's Interrogatory No. 8 (seeking "identif[ication of] all devices that have been connected to Your Samsung SmartTVs, including, but not limited to, any cable boxes, gaming systems, antennas, dongles, smart phones, computers, or other similar electronics"). Because Samsung seeks information which Plaintiffs have already provided, Plaintiffs do not understand the need to inspect the TVs for this information and Samsung's inspection request is unduly burdensome. Plaintiffs are willing to meet and confer regarding the basis for Samsung's request to inspect the TVs for this information.
4. Determine whether the Smart TV operates and is connected to the internet	Plaintiffs do not understand what Samsung means by "operates," as that term is undefined, vague and ambiguous. To the extent Samsung seeks information regarding whether Plaintiffs have used these SmartTVs to view content or programming, Plaintiffs have provided that information in response to Samsung's Interrogatory No. 9 (seeking "identif[ication of] all sources of programming or content viewed on Your Samsung SmartTVs, including, but not limited to, any streaming applications, cable or satellite television providers, portable media devices, or gaming systems"). In light of these facts, Plaintiffs do not understand the need for Samsung to inspect the TVs for this information. Doing so would be unduly burdensome. Plaintiffs are willing to meet and confer regarding the basis for Samsung's request to inspect the TVs for this information.
5. Test whether the Smart TV is connected to Smart Hub	Regarding Samsung's request to inspect each SmartTV to determine if it is "connected to the internet," Plaintiffs provided this information in response to Samsung's Interrogatory No. 13 (seeking "identif[ication of] any time period during which Your

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	<p>Samsung SmartTVs were not connected to the Internet"). Plaintiffs also note that Samsung has the capability of determining whether the SmartTVs are connected to the internet. <i>See</i> ECF No. 181-8 at ¶11 ("According to Samsung's records, Plaintiff White activated the SmartHub on his SmartTV on December 26, 2016"); <i>id.</i> at ¶19 ("According to Samsung's records, Plaintiff Cauley activated the SmartHub on her SmartTV on January 30, 2017"). In light of these facts, Plaintiffs do not understand the need for Samsung to inspect the TVs for this information. Doing so would be unduly burdensome. Plaintiffs are willing to meet and confer regarding the basis for Samsung's request to inspect the TVs for this information.</p>
<p>6. Identify any apps installed on the Smart TV</p>	<p>Plaintiffs provided this information in response to Samsung's Interrogatories No. 9 (seeking "identification of] all sources of programming or content viewed on Your Samsung SmartTVs, including, but not limited to, any streaming applications, cable or satellite television providers, portable media devices, or gaming systems.") Further, Samsung's latest production includes information about the content viewed on Plaintiffs' SmartTVs. <i>See</i> SEA-00045345 (listing the "content_id", "channel_id", "season_id", and "series_id" viewed). Therefore, Samsung's inspection request seeks information that Plaintiffs have already provided and Samsung already has. Its request to inspect the TVs for this information is therefore unduly burdensome. Plaintiffs are willing to meet and confer regarding the basis for Samsung's request to inspect the TVs for this information.</p>
<p>7. Identify Smart TVs' Device Unique Identifier (DUID), Unique Device Identifier (UDID) and/or Personalized Service Identifier (PSID)</p>	<p>Plaintiffs note that, in Samsung's First Set of Interrogatories, Samsung defines Device Unique ID ("DUID") as also meaning "device ID, Device Unique Identifier, UDID, or Unique Device Identifier." It is unclear whether Samsung's October 3, 2023 letter</p>

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	<p>accepts this definition as it seeks “Device Unique Identifier” and/or “Unique Device Identifier.” Nevertheless, Plaintiffs have already provided this information in response to Samsung’s Interrogatories No. 5 (seeking “identif[ication of] the DUID (also referred to as device ID, Device Unique Identifier, UDID, or Unique Device Identifier) for Your Samsung SmartTVs”) and No. 6 (seeking “identif[ication of] the PSID (also referred to as Personalized Service Identifier) for Your Samsung SmartTVs”). Therefore, Samsung’s inspection request seeks information that Plaintiffs have already provided. Its request to inspect the TVs for this information is therefore unduly burdensome. Plaintiffs are willing to meet and confer regarding the basis for Samsung’s request to inspect the TVs for this information, and about any difference between the Device Unique Identifier and the Unique Device Identifier.</p>
8. Determine whether the user consented to Samsung’s Smart Hub Terms and Conditions by date, and the version of the Smart Hub Terms and Conditions to which user consented	<p>Samsung’s request to inspect each SmartTV to determine “whether the user consented” is improper and calls for a legal conclusion. To the extent Samsung seeks information about Plaintiffs’ privacy choices and selections, Plaintiffs note that Samsung has previously stated that it maintains records showing the choices and selections regarding its terms and policies made by the Plaintiffs during the sign up process. <i>See</i> ECF Nos. 181-8 at ¶11, 19. In fact, Plaintiffs have sought these records from Samsung for Plaintiffs and Class Members for months. <i>See</i> ECF No. 235 at B.2 (“Plaintiffs seek documents sufficient to establish what information was provided to purchasers of SmartTVs—including disclosures and explanation about how the televisions function and ‘the choices and consents that the specific user selected’” and citing Pltfs’ RFP 4, 5, and 14–16). To date, Samsung has not produced any such records. In light of these facts, it is unduly burdensome to ask to</p>
9. Determine whether the user consented to Samsung’s Privacy Policy and the version of Samsung’s Privacy Policy to which user consented	
10. Determine whether the user consented to viewing information services and/or viewing history services and the version of the viewing information services/viewing	

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history notice to which user consented.	inspect TVs for information Samsung has but will not produce. However, Plaintiffs are willing to confer with Samsung regarding its request to inspect the TVs for this information and the records Samsung maintains regarding the same.
11. Determine whether the user consented to Samsung's Interest-Based Advertisement Services, and the version of the interest-based advertising notice to which user consented	
12. Identify the Smart TV's selected or designated location or region setting.	Samsung's latest production includes information about the content viewed on Plaintiffs' SmartTVs. <i>See</i> SEA-00045345 (listing the "subdivision", "city", "postal_code", "market_region_code" viewed). In addition, Samsung has previously submitted records to the Court indicating information regarding the Plaintiffs' location Country and IP address, both of which provide information regarding Plaintiff's location. <i>See</i> Ex. 42, ECF No. 181-10; Ex. 4, ECF No. 181-12. In light of this information, it is unduly burdensome to inspect Plaintiffs' TVs for this information. However, Plaintiffs are willing to meet and confer regarding the basis for Samsung's request to inspect the TVs for this information.

Please let Plaintiffs know if Samsung would like to meet and confer about the inspection requests and the information in this letter.

Sincerely,

/s/ Matthew S. Melamed
Matthew S. Melamed

/s/ Joshua D. Samra
Joshua D. Samra